

## NOTICE OF INTENT

### Department of Environmental Quality Office of the Secretary

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Office of the Secretary regulations, LAC 33:I.Chapter 23 (Log #OS025).

The proposed rule will establish a uniform fee schedule and standardize the procedure for processing requests for copies of public records maintained by the Department of Environmental Quality. The Office of the Governor, Division of Administration, established a 25 cents per page fee (see LAC 4:I.301.B) to be charged by all state agencies. This rule reduces the Division of Administration fee to 5 cents per page for persons who complete DEQ Form FSD-0005-02. The Division of Administration has approved the uniform fee schedule and procedure provided in this rule, in accordance with LAC 4:I.301.G. The department's ultimate goal is to make all of its public records available for free through Internet access; viewing of some records may be possible beginning in March 1999. The basis and rationale for this proposed rule are to prescribe the procedure that the public must follow to obtain copies of DEQ public records.

This proposed rule meets the exceptions listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

A public hearing will be held on January 25, 1999, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS025. Such comments must be received no later than February 1, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Investigations and Regulation Development Division at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS025.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asthma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

J. Dale Givens  
Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**  
**Subpart 1. Departmental Administrative Procedures**

**Chapter 23. Procedures for Public Record Requests**

**§2301. Purpose**

It is the purpose of this Chapter to give notice of the standard department procedures for receiving and processing requests for copies of public records and to establish a department copy fee schedule in compliance with the Uniform Fee Schedule for Copies of Public Records (LAC 4:I.301), the Administrative Procedure Act (R.S. 49:950 et seq.), and the Louisiana Public Records Law (R.S. 44:1 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:\*\*.

**§2303. Policy**

A. The department shall implement the fee schedule in LAC 33:I.2309 when providing copies of public records requested by the public.

B. The department reserves the right to deny any request that is so burdensome as to interfere with the operation of the constitutional and legal duties of the custodian of records.

C. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:\*\*.

**§2305. Standard Operating Procedures**

A. All requests for copies of public records, including subpoenas duces tecum for production of original public records, shall be made using DEQ Form FSD-0005-01. A certification on DEQ Form FSD-0005-02 shall be submitted with the request if free or reduced rate copies are requested. Completed forms may be submitted in person, by mail, or by facsimile. No other request (e.g., email, telephone, telegram) will be honored. Completion of the DEQ Form FSD-0005-01 is waived only if the records requested are prepared by the department specifically for sale to the public (e.g., *Environmental Regulatory Code*). Copies of the forms may be obtained through the DEQ website at <http://www.deq.state.la.us> or from the following contacts:

1. Customer Information Number (888) 763-5424;
2. DEQ Headquarters, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810, phone: (225) 765-0741;
3. Office of Air Quality and Radiation Protection, Custodian of Records, Box 82135, Baton Rouge, LA 70884-2135, phone: (225) 765-0219, fax: (225) 765-0222;
4. Office of Legal Affairs and Enforcement, Custodian of Records, Box 82282, Baton Rouge, LA 70884-2282, phone: (225) 765-0370, fax: (225) 765-0409;
5. Office of Management and Finance, Custodian of Records, Box 82231, Baton Rouge, LA 70884-2231, phone: (225) 765-0647, fax: (225) 765-0746;
6. Office of the Secretary, Custodian of Records, Box 82263, Baton Rouge, LA 70884-2263, phone: (225) 765-0741, fax: (225) 765-0746;
7. Office of Waste Services, Custodian of Records, Box 82178, Baton Rouge, LA 70884-2178, phone: (225) 765-0355, fax: (225) 765-0617; and
8. Office of Water Resources, Custodian of Records, Box 82215, Baton Rouge, LA 70884-2215, phone: (225) 765-0634, fax: (225) 765-0635.

B. Payment shall be made in accordance with the rates established in this Chapter.

C. Advance payment is required. Payment shall be made only by check or money order made payable to the Department of Environmental Quality. The department does not accept cash.

D. In order to ensure the preservation of official department records, no records shall leave the premises for duplication, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:\*\*.

### **§2307. Exceptions to Standard Operating Procedures**

The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

A. All requests for copies of public records shall be made using DEQ Form FSD-0005-01.

B. Requests for exceptions to standard operating procedures must be approved in advance by the appropriate division administrator.

C. The only exception to LAC 33:I.2305.D is for large maps that must be duplicated by an outside source copy provider, due to unavailability of suitable copying equipment within the department. In this case, the document shall be accompanied by a department employee who shall remain with the document until its return.

1. When public records are taken by department personnel to an outside source copy provider as an exception to LAC 33:I.2305.D, the requester shall be responsible for all costs of reproduction. The requester shall make payment or arrangements for payment with the outside source copy provider in advance of the request for the exception, and shall include a statement of such arrangements as part of the request. The department reserves the right to approve the outside source copy provider and to refuse the release of original public records to an outside source copy provider.

2. A request for any exception to LAC 33:I.2305.D other than that specified in this Subsection shall be submitted to the secretary, deputy secretary, or undersecretary for consideration and approval.

D. When payment of an invoice for copies of public records provided by facsimile, as an exception to standard operating procedure, is not received in the Fiscal Services Division within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Fiscal Services Division. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid. Division administrator approval is required, and credit approval may be required, prior to providing copies by facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:\*\*.

### **§2309. Uniform Fee Schedule**

Item	Cost
Regular Fees: One-sided Copy (any size) Two-sided Copy (any size)	\$ .25 page \$ .50 page
Reduced Fees (Form FSD-0005-02 completed): One-sided Copy (any size) Two-sided Copy (any size)	\$ .05 page \$ .10 page
Computer Reports (Copy of existing computer generated report): One-sided Copy (any size) Two-sided Copy (any size)	\$ .25 page \$ .50 page
Requests for Proposal (RFP) [Current request only]	No charge

Copies printed and produced by outside sources (Request made by DEQ employees) (DNR Print Shop, LSU Press, DOA Printing, etc.)	As determined by the cost statement
Reproduced VCR Tapes	Cost of tape and production
Computer Generated Report/Map that requires data processing time* (Disk/CD will be provided by DEQ) *Cost to include personnel, supplies, etc.	Determined on each request
Facsimile, per page **A cover sheet and an invoice shall be included in the faxed material at no charge	\$1.00 per page**
Copy of Established File on Personal Computer (Disk/CD will be provided by DEQ) (Charges include processing time)	\$5.00 per Disk/CD
Postage and Handling	Actual cost

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:\*\*.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

LOG #: OS025

Person  
Preparing  
Statement: Steve Sky-Peck Dept.: Environmental  
Quality

Phone: 504-765-0399 Office: Office of the Secretary

Return  
Address: P.O. Box 82282 Title: Uniform Fee Schedule for  
Copies of Public Records  
Baton Rouge, La 70884-2282 LAC 33:I.Chapter 20

Date Rule  
Takes Effect: Upon Promulgation

**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

A modest decrease in revenues is expected with promulgation of this proposed rule as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

An economic benefit to directly affected persons or non-governmental groups is expected as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment is expected as a result of this rule.

\_\_\_\_\_  
Signature of Agency Head or Designee  
OFFICER OR DESIGNEE

\_\_\_\_\_  
LEGISLATIVE FISCAL

J. Dale Givens, Secretary  
Typed Name and Title of Agency Head or Designee

\_\_\_\_\_  
Date of Signature  
LFO 10/05/92

\_\_\_\_\_  
Date of Signature

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule will establish a uniform fee schedule and standardized procedure for processing requests for copies of public records maintained at the Department of Environmental Quality. Reduced copy fees may be available to persons that can certify qualifications specified on DEQ Form FSD-0005-02.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The Office of the Governor, Division of Administration established a minimum 25 cents per page fee (see LAC 4:I.301.B.). However, Sections 301.E. through G. provide for exceptions to the 25 cent rate, if approved by the Division of Administration.

- C. Compliance with Act II of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No increase in the expenditure of funds is anticipated.

2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) \_\_\_\_\_ Yes. If yes, attach documentation.  
(b)   X   No. If no, provide justification as to why this rule change should be published at this time.

See A. and B. above.



**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 98-99	FY 99-00	FY 00-01
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.	-0-	-0-	-0-
POSITIONS(#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

No changes in costs, workload, and paperwork by any state agencies are expected as a result of this rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 98-99	FY 99-00	FY 00-01
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, funds are currently available to implement the proposed rule.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No significant implementation costs or savings to local governmental units are expected as a result of this rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This section is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 98-99	FY 99-00	FY 00-01
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*	(decrease)	(decrease)	(decrease)
FEDERAL FUNDS			
LOCAL FUNDS			
<b>TOTAL</b>	<b>(decrease)</b>	<b>(decrease)</b>	<b>(decrease)</b>

\*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

A modest decrease in revenues is expected with promulgation of this proposed rule as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

An economic benefit to directly affected persons or non-governmental groups is expected as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No significant impact on receipts or income to directly affected persons is expected as a result of this rule.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No effect on competition and employment is expected as a result of this rule.